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FISCAL IMPACT STATEMENT

LS 7608

BILL NUMBER: HB 1512

NOTE PREPARED: Jan 9, 2005

BILL AMENDED:

SUBJECT: Various Family Law Issues.

FIRST AUTHOR: Rep. Fry

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (A) It establishes a rebuttable presumption that joint legal custody and joint physical custody are in the best interests of a child in dissolution of marriage and paternity cases.
- (B) It changes the factors that the court uses in determining whether to order joint physical and joint legal custody. It entitles a noncustodial parent to certain minimum visitation.
- (C) It establishes judicial guidelines for ordering visitation.
- (D) It mandates a seven-day jail sentence for each intentional violation of a visitation order.
- (E) It permits a court to escrow child support funds while a person is not in compliance with a visitation order.
- (F) It requires a court to refer a dissolution of marriage proceeding to mediation or counseling if there are contested issues.
- (G) It requires 40 hours of counseling before a court may grant a legal separation or dissolution of marriage.
- (H) It provides grounds for a custody modification if a person who has been awarded joint physical or joint legal custody moves outside the state or at least 100 miles.
- (I) It requires a court to order a person to pay delinquent support at regular intervals if the other parent is in compliance with court orders.
- (J) It provides that a judge who fails to comply with certain statutory provisions relating to dissolution of marriage, paternity, custody, or visitation commits official misconduct and: (1) is not entitled to judicial immunity; and (2) may not be represented at the state's expense in an action against the judge for official misconduct.
- (K) It mandates judges who preside over dissolution and paternity cases to receive 40 hours of training in shared parenting every two years.
- (L) It repeals certain provisions concerning joint legal custody.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Provision (C):* The Indiana Supreme Court adopted the Indiana Parenting Time guidelines to govern:

- Communications between custodial parents
- Implementing parenting time
- Changes in scheduled parenting time
- Exchange of information
- Resolution of problems
- Parenting time provisions

Provision (K): If the training is provided by the Indiana Judicial Conference, the cost will be incurred by the state. It is estimated that it would cost the state a total of approximately \$200,000 to present one 40-hour training on shared parenting every two years to all judges and magistrates that have jurisdiction over dissolutions of marriage. This figure includes lodging, meals, reimbursement of mileage, materials, space, and the cost of a speaker.

Explanation of State Revenues: *Provision (J):* Official misconduct is a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: *Provision (A)* will increase the number of hearings that the court conducts because joint physical custody arrangements are often difficult for both parties in practice. A joint physical custody arrangement usually requires more judicial time to work out, and often the parties can't agree on the terms of the joint physical custody arrangement, or will have difficulty complying with the terms of the arrangement once it is implemented. All of these factors increase the likelihood that more court hearings will be required.

Provision (D): Local expenditures for jail operations may increase if the court finds parents in intentional violation of a visitation order and requires them to be detained in jail for seven days. At approximately \$44 per day, the estimated cost to detain an individual in a jail for seven days is \$308.

Provisions (F) and (G) could increase the need for counseling services in counties where large numbers of dissolutions of marriage petitions are filed. County costs could increase if respondents cannot pay for the court-mandated mediation or counseling. In counties with a large number of filings, courts may need to hold hearings to enforce attendance at the mandated mediation and counseling sessions and may need to hold additional contempt hearings if people refuse to attend.

Provision (H) will have a minimal impact because it is already grounds for a custody modification when one party moves a significant distance away

Provision (J): Official misconduct is a Class A misdemeanor punishable by up to one year in jail. The average

daily cost to incarcerate someone in a county jail is approximately \$44.

Provision (K): If the training is provided by a private entity like the Indiana Continuing Legal Education Forum, the cost to send the judges to the mandatory training will most likely be paid by the county from the court's budget.

Explanation of Local Revenues: *Provision (J):* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Indiana Judicial Conference.

Local Agencies Affected: Trial courts, local law enforcement agencies; all courts with domestic relations jurisdictions.

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